

this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 2005].”

#### INTERNATIONAL POSTAL AGREEMENTS

Pub. L. 115-271, title VIII, § 8004, Oct. 24, 2018, 132 Stat. 4079, provided that:

“(a) EXISTING AGREEMENTS.—

“(1) IN GENERAL.—In the event that any provision of this subtitle [subtitle A (§§ 8001–8009) of title VIII of Pub. L. 115-271, see Short Title of 2018 Amendment note set out under section 1 of this title], or any amendment made by this subtitle, is determined to be in violation of obligations of the United States under any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, the Secretary of State should negotiate to amend the relevant provisions of the agreement so that the United States is no longer in violation of the agreement.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to permit delay in the implementation of this subtitle or any amendment made by this subtitle.

“(b) FUTURE AGREEMENTS.—

“(1) CONSULTATIONS.—Before entering into, on or after the date of the enactment of this Act [Oct. 24, 2018], any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, that is related to the ability of the United States to secure the provision of advance electronic information by foreign postal operators, the Secretary of State should consult with the appropriate congressional committees (as defined in section 8003(f)) [Committee on Finance and Committee on Homeland Security and Governmental Affairs of the Senate and Committee on Ways and Means, Committee on Oversight and Reform, and Committee on Homeland Security of the House of Representatives].

“(2) EXPEDITED NEGOTIATION OF NEW AGREEMENT.—To the extent that any new postal treaty, convention, or other international agreement related to international postal services would improve the ability of the United States to secure the provision of advance electronic information by foreign postal operators as required by regulations prescribed under section 343(a)(3)(K) of the Trade Act of 2002 [19 U.S.C. 1415(a)(3)(K)], as amended by section 8003(a)(1), the Secretary of State should expeditiously conclude such an agreement.”

#### COST RECOUPMENT

Pub. L. 115-271, title VIII, § 8005, Oct. 24, 2018, 132 Stat. 4079, provided that:

“(a) IN GENERAL.—The United States Postal Service shall, to the extent practicable and otherwise recoverable by law, ensure that all costs associated with complying with this subtitle [subtitle A (§§ 8001–8009) of title VIII of Pub. L. 115-271, see Short Title of 2018 Amendment note set out under section 1 of this title] and amendments made by this subtitle are charged directly to foreign shippers or foreign postal operators.

“(b) COSTS NOT CONSIDERED REVENUE.—The recovery of costs under subsection (a) shall not be deemed revenue for purposes of subchapter I and II of chapter 36 of title 39, United States Code, or regulations prescribed under that chapter.”

#### PART II—REPORT, ENTRY, AND UNLADING OF VESSELS AND VEHICLES

### § 1431. Manifests

#### (a) In general

Every vessel required to make entry under section 1434 of this title or obtain clearance under section 60105 of title 46 shall have a manifest that complies with the requirements prescribed under subsection (d).

#### (b) Production of manifest

Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties.

#### (c) Public disclosure of certain manifest information

(1) Except as provided in subparagraph (2), the following information, when contained in a vessel<sup>1</sup> or aircraft manifest, shall be available for public disclosure:

(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

(B) The general character of the cargo.

(C) The number of packages and gross weight.

(D) The name of the vessel, aircraft, or carrier.

(E) The seaport or airport of loading.

(F) The seaport or airport of discharge.

(G) The country of origin of the shipment.

(H) The trademarks appearing on the goods or packages.

(2) The information listed in paragraph (1) shall not be available for public disclosure if—

(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

(B) the information is exempt under the provisions of section 552(b)(1) of title 5.

(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.

#### (d) Regulations

##### (1) In general

The Secretary shall by regulation—

(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a);

(B) allow, at the option of the individual producing the manifest and subject to para-

<sup>1</sup> So in original.

graph (2), letters and documents shipments to be accounted for by summary manifesting procedures;

(C) prescribe the manner of production for, and the delivery for electronic transmittal of, the manifest required by subsection (a); and

(D) prescribe the manner for supplementing manifests with bill of lading data under subsection (b).

## (2) Letters and documents shipments

For purposes of paragraph (1)(B)—

(A) the Customs Service may require with respect to letters and documents shipments—

(i) that they be segregated by country of origin, and

(ii) additional examination procedures that are not necessary for individually manifested shipments;

(B) standard letter envelopes and standard document packs shall be segregated from larger document shipments for purposes of customs inspections; and

(C) the term “letters and documents” means—

(i) data described in General Headnote 4(c) of the Harmonized Tariff Schedule of the United States,

(ii) securities and similar evidences of value described in heading 4907 of such Schedule, but not monetary instruments defined pursuant to chapter 53 of title 31, and

(iii) personal correspondence, whether on paper, cards, photographs, tapes, or other media.

(June 17, 1930, ch. 497, title IV, § 431, 46 Stat. 710; Aug. 8, 1953, ch. 397, § 15, 67 Stat. 516; Pub. L. 98-573, title II, § 203, Oct. 30, 1984, 98 Stat. 2974; Pub. L. 100-690, title VII, § 7367(c)(1), Nov. 18, 1988, 102 Stat. 4479; Pub. L. 103-182, title VI, § 635, Dec. 8, 1993, 107 Stat. 2199; Pub. L. 104-153, § 11, July 2, 1996, 110 Stat. 1389; Pub. L. 104-295, § 3(a)(3), Oct. 11, 1996, 110 Stat. 3515.)

### REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (d)(2)(C)(i), (ii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

### CODIFICATION

In subsec. (a), “section 60105 of title 46” substituted for “section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

### PRIOR PROVISIONS

R.S. §§ 2806, 2807 (as amended by act June 3, 1902, ch. 86, § 1, 27 Stat. 41), and 2808, requiring manifests, and prescribing their contents, were superseded by act Sept. 21, 1922, ch. 356, title IV, § 431, 42 Stat. 950, and repealed by section 642 thereof. Section 431 of the 1922 act was superseded by section 431 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

R.S. § 2805, relative to the administration of oaths required by that chapter, was superseded to a great extent by the Customs Administrative Act of June 10, 1890, ch. 407, § 22, 26 Stat. 140, amended by the Payne-Al-

drich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 102, and by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, § IV, S., 38 Stat. 201, which abolished all oaths administered by officers of the customs, except as provided in those acts and repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-295 substituted “a vessel manifest” for “such manifest” in introductory provisions.

Pub. L. 104-153 inserted “vessel or aircraft” before “manifest” in introductory provisions, amended subpars. (D) to (F) generally, substituting “vessel, aircraft, or carrier” for “vessel or carrier” in subpar. (D) and “seaport or airport” for “port” in subpars. (E) and (F), and added subpar. (H).

1993—Subsecs. (a) and (b). Pub. L. 103-182, § 635(1), amended subsecs. (a) and (b) generally, substituting present provisions for provisions relating to, in subsec. (a), the requirement, form, and contents of manifests and, in subsec. (b), the signing and delivery of manifests.

Subsec. (d). Pub. L. 103-182, § 635(2), added subsec. (d).

1988—Subsec. (c)(1)(G). Pub. L. 100-690 substituted “country of origin” for “country or origin”.

1984—Subsec. (a). Pub. L. 98-573, § 203(1), inserted “; and the names of the shippers of such merchandise” in par. Third.

Subsec. (c). Pub. L. 98-573, § 203(2), added subsec. (c).

1953—Act Aug. 8, 1953, designated existing provisions as subsec. (a) and added subsec. (b).

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

### EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment to this section effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

### REGULATIONS

Pub. L. 104-153, § 14, July 2, 1996, 110 Stat. 1390, provided that: “Not later than 6 months after the date of the enactment of this Act [July 2, 1996], the Secretary of the Treasury shall prescribe such regulations or amendments to existing regulations that may be necessary to carry out the amendments made by sections 9, 10, 11, 12, and 13 of this Act [amending this section, sections 1484 and 1526 of this title, and section 80302 of Title 49, Transportation].”

### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

**§ 1431a. Documentation of waterborne cargo****(a) Applicability**

This section shall apply to all cargo to be exported that is moved by a vessel carrier from a port in the United States.

**(b) Documentation required**

(1) No shipper of cargo subject to this section (including an ocean transportation intermediary that is a non-vessel-operating common carrier (as defined in section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B))<sup>1</sup><sup>2</sup> may tender or cause to be tendered to a vessel carrier cargo subject to this section for loading on a vessel in a United States port, unless such cargo is properly documented pursuant to this subsection.

(2) For the purposes of this subsection, cargo shall be considered properly documented if the shipper submits to the vessel carrier or its agent a complete set of shipping documents no later than 24 hours after the cargo is delivered to the marine terminal operator, but under no circumstances later than 24 hours prior to departure of the vessel.

(3) A complete set of shipping documents shall include—

(A) for shipments for which a shipper's export declaration is required, a copy of the export declaration or, if the shipper files such declarations electronically in the Automated Export System, the complete bill of lading, and the master or equivalent shipping instructions, including the Internal Transaction Number (ITN); or

(B) for shipments for which a shipper's export declaration is not required, a shipper's export declaration exemption statement and such other documents or information as the Secretary may by regulation prescribe.

(4) The Secretary shall by regulation prescribe the time, manner, and form by which shippers shall transmit documents or information required under this subsection to the Customs Service.

**(c) Loading undocumented cargo prohibited**

(1) No marine terminal operator (as defined in section 3(14) of the Shipping Act of 1984 (46 U.S.C. App. 1702(14)))<sup>1</sup> may load, or cause to be loaded, any cargo subject to this section on a vessel unless instructed by the vessel carrier operating the vessel that such cargo has been properly documented in accordance with this section.

(2) When cargo is booked by 1 vessel carrier to be transported on the vessel of another vessel carrier, the booking carrier shall notify the operator of the vessel that the cargo has been properly documented in accordance with this section. The operator of the vessel may rely on such notification in releasing the cargo for loading aboard the vessel.

**(d) Reporting of undocumented cargo****(1) In general**

A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier

that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal.

**(2) Sharing arrangements**

For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier's vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

**(3) Reassignment to another vessel**

For purposes of this subsection and subsection (f), if merchandise has been tendered to a marine terminal operator and subsequently reassigned for carriage on another vessel, the merchandise shall be considered properly documented if the information provided reflects carriage on the previously assigned vessel and otherwise meets the requirements of subsection (b). Notwithstanding the preceding sentence, it shall be the responsibility of the vessel carrier to notify the Customs Service promptly of any reassignment of merchandise for carriage on a vessel other than the vessel on which the merchandise was originally assigned.

**(4) Multiple containers**

If a single shipment is comprised of multiple containers, the 48-hour period described in paragraph (1) shall begin to run from the time the last container of the shipment is delivered to the marine terminal operator. It shall be the responsibility of the person tendering the cargo to inform the carrier that the shipment consists of multiple containers that will be delivered to the marine terminal operator at different times as part of a single shipment.

**(e) Assessment of penalties**

Whoever is found to have violated subsection (b) of this section shall be liable to the United States for civil penalties in a monetary amount up to the value of the cargo, or the actual cost of the transportation, whichever is greater.

**(f) Seizure of undocumented cargo**

(1) Any cargo that is not properly documented pursuant to this section and has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal operator shall be subject to search, seizure, and forfeiture.

(2) The shipper of any such cargo is liable to the marine terminal operator and to the ocean carrier for demurrage and other applicable charges for any undocumented cargo which has been notified to or searched or seized by the Customs Service for the entire period the cargo remains under the order and direction of the Customs Service. Unless the cargo is seized by the Customs Service and forfeited, the marine terminal operator and the ocean carrier shall have a lien on the cargo for the amount of the demurrage and other charges.

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be "1702(17)(B))".